

**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
**BRAIN INJURY COMMITTEE**  
**February 6, 2017 – 2:00 PM**  
**Smyrna Rest Area Conference Room, Smyrna**

**PRESENT:** Brian Hartman, Vice Chair/DLP; Linda Brittingham, Christiana Care; Jane Crowley, AI duPont Hospital; Tammy Clifton, DVR/BIAD; Kristin Cosden-Harvey, DDC; Jim Dickinson, DDDS; Dr. Katie Freeman, DPBHS; Francis Haggerty, VA; Richard Kajim, DHSS Telehealth Planning; Sharon Lyons, BIAD; Nicol Joseph, Health Options; Patricia Martin, United Healthcare Community & State (UHCC); Lenora Reynolds/Delaine Phillips, UHCC (phone); Marcey Rezac/Kayla Vaughan, Peoples Place; Clarence Watson, DSAMH; John McNeal, Staff; and Jo Singles, Support Staff.

**CALL TO ORDER**

Brian called the meeting to order at 2:06 pm. Everyone introduced themselves.

**ADDITIONS/DELETIONS TO THE AGENDA**

None

**APPROVAL OF MINUTES**

Brian asked for a motion to approve the January 9, 2017 minutes. Kristin made the motion and Francis seconded the motion. The minutes were approved as submitted.

**BUSINESS**

**HB 14 – Motorcycle Helmet Legislation**

Brian distributed and reviewed a packet of information regarding the current motorcycle helmet legislation (handout). He added that this will be discussed at the Policy & Law Committee meeting on Thursday, February 9. Brian provided background information on this Committee's involvement in previous motorcycle helmet legislations, including 2012 and 2015. He noted that one of the Committee's initiatives was supporting legislation that raised the age requirement for wearing bicycle helmets to age 18 (Delaware was one of two states). The current proposed legislation is still in Committee (Safety & Homeland Security). Brian noted that, if this legislation is enacted, Delaware would join the majority of states in the northeast establishing a universal law requiring riders to wear helmets regardless of age; New Jersey, Maryland, New York, Vermont, Massachusetts, District of Columbia and West Virginia have similar legislation. Delaware currently requires riders to wear a helmet under 19 years of age and those 19 and over are required to have a helmet on their bike.

Brian reviewed statistics by the CDC that helmets reduced the risk of deaths by 37 percent and head injuries by 69 percent. The National Highway Traffic Safety Administration concluded that an annual \$1.1 billion could have been saved in economic cost, and \$7.2 billion in comprehensive costs if all motorcyclists wore helmets in a single year. He also spoke about a GAO report and a Public Health Law Research review of 69 studies on the effectiveness of universal helmet law, and referenced an NHTSA link: [https://one.nhtsa.gov/people/injury/pedbimot/motorcycle/motorcycle\\_html/overview.html](https://one.nhtsa.gov/people/injury/pedbimot/motorcycle/motorcycle_html/overview.html), which speaks about the costs. Brian recommended sharing this information with policymakers and

legislators, Governor, Departments of Health & Social Services, Transportation, and Safety & Homeland Security. Brian asked for discussion about this legislation and added that he hoped to have an endorsement from this Committee when he presents to the Policy & Law Committee on Thursday, February 9. He stated that this Committee could take an active role in promoting enactment, for example, by collecting endorsements from the above listed Departments, Brain Injury Association of Delaware, and other non-profit organizations. Other potential groups are Christiana Care and the Medical Society of Delaware, etc.

Several Committee members stated that this was a great idea, including Kristin who added that the DDC wholeheartedly supports this legislation. She added that they are developing a one-page fact sheet and are willing to assist in anyway. John spoke about his personal experience in surviving a motorcycle accident. He noted that the fiscal impact is what will impact the legislators the most. He asked about the reasons besides the infringement of personal decision making as weighing so heavily in the opposition to this type of legislation. Brian commented about strong lobbying from motorcycle groups.

Jim commented about the disproportionate enforcement of laws against motorcyclists since it is so obvious they are not wearing a helmet than drivers/passengers in cars not wearing a seat belt. Kristen stated that legislators need to be presented with hard financial data. She thanked Brian for his research. Brian noted that Maryland had some pushback, but that the cost analysis is compelling. He also commented that if AFC (Affordable Care Act) is rolled back, there will be fewer people with health insurance. John spoke about the benefits of comparing what the annual cost is for someone with a brain injury and a spinal cord injury. He spoke about his personal experience from his motorcycle injury. Kristen stated that DDC has two interns who are currently working on another project, but maybe they could do some research. She also spoke about various reasons people give for not wearing a helmet. John added impeding on personal freedom as a reason has been successful for many years. Kristen spoke about the impact of having someone who lost a family member who could have been saved if he/she were wearing a helmet testify before legislators. Richard spoke about his experiences having lived in Trinidad, Jamaica, New York, and District of Columbia where there were universal helmet laws, and currently living in Delaware where there are not. Richard spoke about an article he had on Minnesota and the cost to taxpayers for those that do not wear helmets that will be shared with Committee members. He spoke about having the image of a cracked helmet and that image will resonate longer with legislators.

Jim spoke about having a campaign to try to change public opinion. Brian commented that we could do both, but would prefer focusing on the Legislature. The SCPD has a charge to inform legislators and policymakers. Kristen suggested using social media to get the word out and get people to testify. John stated he will provide testimony based on his personal experience. He will be reaching out to some people he knows whose lives were saved by wearing a helmet. He added that we can have a conversation with the Department of Transportation. Kristen suggested researching the opposition regarding mandatory seat belt use. Jim commented that we need to be careful about using logical arguments against the opposition which is built on irrational arguments. There needs to be an emotional component and how showing a cracked helmet could be used against the argument for helmet use. Brian noted that originally all 50 states had a required helmet use law in order to receive federal funds. Once that requirement was removed at the federal level, we have moved backwards.

Brian summarized that this Committee would support a Council letter and take the lead in collecting those endorsements. The Committee will also compile a Fact Sheet, including statistics and reasons for the passage of this legislation (including what the DDC has done). We also need to be prepared for the hearings and have people testify.

Brian spoke about legislation covering operating mopeds and tripeds (handout). He reviewed the law which requires anyone under 16 years of age to wear a helmet. He spoke about a requirement for anyone riding a bicycle under 18 years of age to wear a helmet. This requirement also applies to those using motorized skateboards, scooters and all-terrain vehicles. He stated that 23 states apply their motorcycle helmet laws to mopeds. Twenty-four states and the District of Columbia cover some low-powered cycles. He reviewed the surrounding states, including Maryland and New Jersey, which includes all riders regardless of age. Pennsylvania requires all riders under 20 years of age to wear a helmet.

Brian stated that an easy fix would be a bill that changes the age from 16 to 18 years of age—making equivalence between bicycles, motor scooters, all-terrain vehicles, and mopeds. He added this is a simple initiative that this Committee could take on. He commented about what type of helmet would be mandated because a bicycle helmet would not provide much protection and is not consistent with what most states are requiring. More research needs to be done to see what type of helmet is needed. He added that Nemours and A.I. duPont Hospital may be interested in promoting this and they have a lot of credibility with the Legislature. Jane suggested contacting Pat Redmond (A.I. duPont), including those in Prevention & Health and Government Relations. Katie suggested adding all riders to the legislation. Brian will coordinate with John and Pat Redmond.

#### HB 21 – Organ Transplant Discrimination Legislation

Brian distributed and reviewed a packet of information on Organ Transplant Discrimination legislation (handout). He spoke about the correlation between people in motor vehicle accidents having injuries apart from brain injury that prompt them to need an organ transplant. Jo will send out the information packet after the meeting. Currently, the legislation is waiting for a vote in the House and has a fair amount of support. As of December 30<sup>th</sup>, 471 Delawareans are awaiting organ transplants. There is a nationwide concern over disability-based discrimination in qualifying and receiving an organ transplant. He reviewed a news article about New Jersey's Governor signing a bill into effect banning hospitals and doctors from denying disabled people organ transplants.

Brian is recommending a general endorsement, but that a communication also be sent to the prime sponsors with suggested amendments on two overlapping concerns. He will share this with the Policy & Law Committee on Thursday. Committee members were in agreement.

#### MCO/EPICV Concerns

Brian stated that the issue seemed to be the EPIC was not allowed to sign off with the MCOs as a provider of day services. This was tabled until the next meeting when Ann is able to attend.

#### BIAD Report

Sharon stated that the BIAD 26<sup>th</sup> Annual Conference is scheduled for March 23<sup>rd</sup>. There is a reception in the evening on March 22<sup>nd</sup> and grants are awarded during the reception. Additional

information can be found on the BIAD website: <https://www.biaofdc.org/>. The theme this year is “After the Formal Supports are Gone, What Do I Do Now?” There will be many speakers and there will be two panels—one for pediatrics and one for adults during the afternoon. The search still continues for an Executive Director and there is no office support except for one person who works two days a week. Tammy will send a flyer to Jo for distribution.

Sharon spoke about the many presentations she had done to raise awareness about BIAD. Sharon spoke about her attempts to bring together major stakeholders in Delaware. There are different groups working separately, but we need to work together. Another concern is that people are discharged from the hospital whether or not there is family that can care for them. She spoke about a recent experience where a patient with a brain injury was sent home and family was unable to care for him; he was sent to a mental health facility that was not trained to deal with someone with a brain injury. She has been reaching out to nursing homes and long term care facilities to learn more about brain injury. Richard spoke about utilizing telehealth medicine to train staff so they can increase their competency. Richard will give Jo a copy of a table regarding telehealth medicine for traumatic brain injury for sharing to Committee members. He noted that Skype for Business is HIPPA secure. John commented about making education a choice vs. a requirement for facilities. He added that there seems to be a missing level of training that should be required. Linda commented that they say they cannot take these people with these type of behavioral issues. Sharon commented that Rockford cannot say no.

John spoke about cost/benefit analysis, and, if the cost is more, private facilities are less inclined to take on this responsibility. He asked if they are entitled to federal dollars if they are discriminating to some degree for the type of injury because it is financially beneficial. Linda added that whether someone has dementia or brain injury, they are not accepted into a private facility because of cost, liability and marketing.

Sharon spoke about the goal to keep people in the community, but, if services are not available, where do they go. Brian stated that there are problems in getting people into day programs. Brian commented that there is no easy solution. Brian suggested that we could address this with DMMA in terms of the Medicaid Long Term Care Program Plus, as they are supposed to have enough provider networks to meet clients’ needs. He said that DMMA did a pilot incorporating specific instrumentality for people with brain injury for screening, so it is more valid and reliable. DMMA is encouraging training of staff in using the Mayo-Portland screening tool. Brian asked one of the MCOs if they are having difficulty in placing individuals with traumatic brain injury either residentially or obtaining services. Patricia stated that she has not heard of difficulty in getting members into the providers in New Castle, Kent & Sussex Counties. She will follow-up on this with the staff who work directly with these individuals. Lenora added that Point of Hope is the only day program. Brian asked if they were open to having more providers that have specialization in TBI. Lenora commented that there is a need across the board. This discussion will continue when Ann is available to attend.

#### Other Business

Brian spoke about DMMA changing some regulations regarding their Elderly & Disabled Program Provider Manual. They have included some specific provisions about TBI in the adult day services and attendant services. This is a positive step forward and will be highlighted at the Policy & Law Committee meeting.

Jane asked for clarification during the last meeting about the concussion legislation and DPH's issuance of regulations in two areas (medical providers and disposition similar to what DIAA does regarding contact sports). Brian explained that DPH's Policy Administrator attended the meeting and was asking for some direction from us on the regulations. Brian added that since John had just come on board, we need to follow-up on that. Also, they may identify additional sports after doing more research. These are the only two areas that DPH is authorized to issue regulations. Jane asked if other groups are doing other regulations. Brian commented that we need to initiate a dialog with DIAA to determine how coaches and umpires are trained. There is a lot for us to do. This will be on the agenda for next month since this Committee is mandated to take the lead. An action plan will have to be developed. John will contact Brian and Jane to be updated (via conference call). Sharon noted that Jane started the first concussion program in Delaware.

#### **ANNOUNCEMENTS**

None

#### **ADJOURNMENT**

The meeting adjourned at 3:25 pm.

Respectively submitted,

Jo Singles  
SCPD Administrative Specialist  
S: bic/feb17min